

Application Serial No: 10/657,774
In reply to Office Action of 21 September 2004

Attorney Docket No. 83084

REMARKS / ARGUMENTS

Claims 1-19 are currently pending in the application. Claim 18 is allowed. Claims 1, 2, 7, 16, 17 and 19 are rejected. Claims 3-6 and 8-15 are objected to. Claims 1, 2, 7, 16, 17 and 19 have been cancelled without prejudice or disclaimer. Claims 3, 4, 6 and 8 have been amended by this response.

The Office Action has rejected claims 1, 16-17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Weldmann et al. (Reference A: U.S. Patent No. 4,488,444) in view of Leon (Reference C: U.S. Patent No. 4,911,004).

With respect to claim 1, the Office Action states that Weldmann et al. teaches an upper structure including an elongated beam 20, at least one support bracket 22 adjustably mountable along a longitudinal span thereof, and a plunger 27 pivotally mounted in said at least one upper support bracket (Col. 2, lines 32-39), said plunger 27 engageable in support of the specimen S and said upper structure engageable with the load application device 25 and 26 opposite said plunger 27; and a lower structure 10 spaced apart from said upper structure 20, said lower support structure including a support beam 10, at least one spacing member 50 mounted along a longitudinal span thereof, a lower support bracket 40, and a support 44 pivotally mounted in said lower support bracket to face said upper support

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structure and engageable with the specimen S as noted in Figure 1. Weldmann et al. fails to teach the supporting structure being a saddle or a device mounted as a support and often shaped to fit the object held mounted in said at least one upper support bracket. The Office Action further states that Leon teaches v-shaped specimen gripping means as in elements 20 and 22 that function as a device mounted as a support and often shaped to fit the object held. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teachings of the testing device of Weldmann et al. utilizing the teachings of the determining device of Leon by providing it with saddle or v-shaped specimen grippings means as in elements 20 and 22 that function as a device mounted as a support and often shaped to fit the object held to further improve the gripping and supporting features of said testing device therefore making said device more reliable.

With respect to claim 16, the Office Action states that Weldmann et al. teaches the utilization of bearing 41 between the bracket structure 40 and the upper support means 44. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teachings of the testing device of Weldmann et al. as modified by Leon by also utilizing the bearing means in the upper support means to further facilitate the rotational movement between elements 22,

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24 and 27 by allowing the transmission of the desired load in order to make said device more accurate.

With respect to claim 17, the Office Action states that Weldmann et al. teaches the utilization of bearing 41 between the bracket structure 40 and the upper support means 44.

With respect to claim 19, the Office Action states that Weldmann et al. teaches upper longitudinal support means 20 for adjustably support at least one bracket 22 along a longitudinal span thereof, and a plunger 27 pivotally mounted in said at least one upper support bracket, said plunger 27 engagable in support of the specimen S and said upper structure engageable with the load application device opposite said plunger; and lower longitudinal support means 10 for supporting at least lower support bracket 40, said lower longitudinal support means spaced apart from said upper longitudinal support means and including a beam, at least one spacing member 50 adjustably mounted along a longitudinal span thereof, said at least one lower support bracket 40 mounted along a longitudinal span of said spacing member, and a saddle pivotally mounted in each said at least one lower support bracket to face said upper support means and engageable with the specimen. Weldmann et al. fails to teach the supporting structure being a saddle or a device mounted as a support and often shaped to fit the object held mounted in said at least one upper support bracket. The Office

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Action further states that Leon teaches v-shaped specimen gripping means as in elements 20 and 22 that function as a device mounted as a support and often shaped to fit the object held. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teachings of the testing device of Weldmann et al. utilizing the teachings of the determining device of Leon by providing it with saddle or v-shaped specimen gripping means as in element 20 and 22 that function as a device mounted as a support and often shaped to fit the object held to further improve the gripping and supporting features of said testing device therefore making said device more reliable.

The Office Action has rejected claims 2 and 7 under 35 U.S.C. § 103(a) as being patentable over Weldmann et al. in view of Leon and further in view of Gravier (Reference B: U.S. Patent No. 6,079,247).

With respect to claims 2 and 7, the Office Action states that Weldmann et al. fails to teach said elongated beam of said upper and lower structure is an I-shape. The Office Action further states that Gravier teaches the utilization of an I-shaped frame beam as stable and commonly known in the art. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teachings of the testing device of Weldmann et al. as modified by Leon and

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further utilizing the teachings of the bending machine of Gravier to further increase the reliability and stability of said device.

This Office Action has allowed claim 18 and objected to claims 3-6 and 9-15 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims or if the limitations of said claim are inserted in the base claim including all of the limitations of the base claim and any intervening claims. Additionally, claim 8 has been identified as being objected to as a result of a phonecall with SPE Edward Lefkowitz and a subsequent cover sheet confirming the call.

These rejections and objections are respectfully traversed in view of these amendments and remarks.

In the Office Action, claims 1, 16, 17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weldmann et al. (Reference A: U.S. Patent No. 4,488,444) in view of Leon (Reference C: U.S. Patent No. 4,911,004). In response, claims 1, 16, 17 and 19 have been cancelled without prejudice or disclaimer; therefore, the rejection of the Office Action is resolved for these claims.

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In the Office Action, claims 2 and 7 were rejected under 35 U.S.C. § 103(a) as being patentable over Weldmann et al. in view of Leon and further in view of Gravier (Reference B: U.S. Patent No. 6,079,247). In response, claims 2 and 7 have been cancelled without prejudice or disclaimer; therefore, the rejection of the Office Action is resolved for these claims.

In the Office Action claims 3-6 and 9-15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims or if the limitations of said claim are inserted in the base claim including all of the limitations of the base claim and any intervening claims. Additionally, claim 8 has been identified as being objected to as a result of a phonecall with SPE Edward Lefkowitz and a subsequent Office Action Summary confirming the call (faxed by Examiner Martir to this office on October 25, 2004).

In response, claim 3 has been amended to independent form incorporating all of the limitations of the base claim and any intervening claims with claim 5 remaining originally dependant on claim 3. Claims 4 and 6 have been amended to correct antecedent basis but remain originally dependant on claim 3.

In regard to claim 8, the claim has been amended to independent form incorporating all of the limitations of the

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base claim and any intervening claims with claims 9-15 remaining originally dependant on claim 8. As a result of the amendments to claims 3 and 8, the objections of the Office Action are resolved.

In view of the arguments detailed above, Applicants respectfully request reconsideration and allowance of the application.

The Examiner is invited to telephone Michael P. Stanley, Attorney for Applicants, at 401-832-4736 if, in the opinion of the Examiner, such a telephone call would serve to expedite the prosecution of the subject patent application.

Respectfully submitted,
PAUL V. CAVALLARO ET AL

26 October 2004

By 
MICHAEL P. STANLEY
Attorney of Record
Reg. No. 47108